



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R01-OAR-2014-0364; A-1-FRL-9939-63-Region 1]

Air Plan Approval; Connecticut; Sulfur Content of Fuel Oil Burned in Stationary Sources.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of Connecticut on April 22, 2014, with supplemental submittals on June 18, 2015 and September 25, 2015. This revision establishes sulfur in fuel oil content limits for use in stationary sources. In addition, the submittal includes a revision to the sampling and emission testing methods for the sulfur content in liquid fuels. The intended effect of this action is to approve these requirements into the Connecticut SIP. This action is being taken under the Clean Air Act.

DATES: This direct final rule will be effective [Insert date 60 days from date of publication in the Federal Register], unless EPA receives adverse comments by [Insert date 30 days from date of publication in the Federal Register]. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA-R01-OAR-2014-0364 by one of the following methods:

1. **www.regulations.gov**: Follow the on-line instructions for submitting comments.
2. E-mail: arnold.anne@epa.gov
3. Fax: (617) 918-0047.
4. Mail: “Docket Identification Number EPA-R01-OAR-2014-0364, Anne Arnold, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, 5 Post Office Square - Suite 100, (Mail code OEP05-2), Boston, MA 02109 - 3912.
5. Hand Delivery or Courier. Deliver your comments to: Anne Arnold, Manager, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, 5 Post Office Square - Suite 100, (mail code OEP05-2), Boston, MA 02109 - 3912. Such deliveries are only accepted during the Regional Office’s normal hours of operation. The Regional Office’s official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

Instructions: Direct your comments to Docket ID No. EPA-R01-OAR-2014-0364. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through www.regulations.gov, or e-mail, information that you consider to be CBI or otherwise protected. The www.regulations.gov website is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov your

e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square - Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

In addition, copies of the state submittal are also available for public inspection during normal business hours, by appointment at the State Air Agency; Bureau of Air Management,

Department of Energy and Environmental Protection, State Office Building, 79 Elm Street,
Hartford, CT 06106-1630.

FOR FURTHER INFORMATION CONTACT: Anne K. McWilliams, Air Quality Planning Unit, U.S. Environmental Protection Agency, New England Regional Office, 5 Post Office Square - Suite 100, (Mail code OEP05-2), Boston, MA 02109 - 3912, telephone (617) 918-1697, facsimile (617) 918-0697, email mcwilliams.anne@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

Organization of this document. The following outline is provided to aid in locating information in this preamble.

I. Background and Purpose

II. Connecticut’s SIP Revision

III. EPA’s Evaluation of Connecticut’s SIP Revision

- a. New Section 22a-174-19b “Fuel Sulfur Content Limitations for Stationary Sources”
- b. Revisions to Section 22a-174-19 “Control of Sulfur Compound Emissions”
- c. Revisions to Section 22a-174-19a “Control of Sulfur Dioxide Emissions from Power Plants and Other Large Stationary Sources of Air Pollution”
- d. Revisions to Section 22a-174-5 (previously codified as Section 19-508-5) “Methods for Sampling, Emission Testing, and Reporting”

IV. Final Action

V. Incorporation by Reference

VI. Statutory and Executive Order Reviews

I. Background and Purpose

In section 169A(a)(1) of the 1977 Amendments to the Clean Air Act (CAA), Congress created a program for protecting visibility in the nation's national parks and wilderness areas. This section of the CAA establishes as a national goal the "prevention of any future, and the remedying of any existing, impairment of visibility in mandatory Class I Federal areas¹ which impairment results from manmade air pollution." Congress added section 169B to the CAA in 1990 to address regional haze issues. EPA promulgated a rule to address regional haze on July 1, 1999 (64 FR 35714), the Regional Haze Rule. The Regional Haze Rule revised the existing visibility regulations to integrate into the regulation provisions addressing regional haze impairment and established a comprehensive visibility protection program for Class I areas.

On July 10, 2014, EPA approved Connecticut's initial Regional Haze plan into the SIP. See 79 FR 39322. Specifically, as part of the approval, EPA approved into the Connecticut SIP Connecticut's legislation to reduce the sulfur in fuel content of home heating oil.^{2,3} EPA also

¹ Areas designated as mandatory Class I Federal areas consist of national parks exceeding 6000 acres, wilderness areas and national memorial parks exceeding 5000 acres, and all international parks that were in existence on August 7, 1977 (42 U.S.C. 7472(a)). In accordance with section 169A of the CAA, EPA, in consultation with the Department of Interior, promulgated a list of 156 areas where visibility is identified as an important value (44 FR 69122, November 30, 1979). The extent of a mandatory Class I area includes subsequent changes in boundaries, such as park expansions (42 U.S.C. 7472(a)).

² Connecticut General Statute Title 16a-21a effective June 2, 2008 in part limits the sulfur content of number two heating oil to 500 parts per million (ppm) as of the date on which the last of the states of New York, Massachusetts, and Rhode Island made this requirement effective. The fuel sulfur limit became effective in these three states as of July 1, 2014.

approved Regulations of Connecticut State Agencies (RCSA) Section 22a-174-19a (Sec-19a) “Control of Sulfur Dioxide Emissions from Power Plants and other Large Stationary Sources of Air Pollution” in the July 2014 rulemaking. Sec-19a limits the sulfur in fuel oil content used in any emission unit subject to the provisions of RCSA section 22a-174-22b, the Post-2002 Nitrogen Oxides Budget Program. The emission units regulated by the Post-2002 Nitrogen Oxides Budget Program are baseline electricity generating units, cogeneration units, industrial units, and new electricity generating units.

The Connecticut Department of Energy and Environmental Protection (CT-DEEP) has now submitted a SIP revision concerning the sulfur content of fuel oils burned in stationary sources not subject to Sec-19a. This revision supplements the State’s earlier approved Regional Haze plan in that the revision will result in additional reductions of sulfur dioxide (SO₂) emissions (but was not legally required in order for EPA to have earlier approved Connecticut’s Regional Haze plan).

II. Connecticut’s SIP Revision

On April 22, 2014, CT-DEEP submitted to EPA new RCSA section 22a-174-19b (Sec-19b) “Fuel Sulfur content Limitations for Stationary Sources,” revisions to SIP-approved RCSA section 22a-174-19 (Sec-19) “Control of Sulfur Compound Emissions,” revisions to SIP-approved RCSA section 22a-174-19a “Control of Sulfur Dioxide Emissions from Power Plants

³ Sulfates play a major role in the formation of Regional Haze in the Northeast. (See the Northeast States for Coordinated Air Use Management (NESCAUM) document *Contributions to Regional Haze in the Northeast and Mid-Atlantic United States*, August 2006)

and Other Large Stationary Sources of Air Pollution,” and RSCA section 19-174-5 “Methods for Sampling, Emission Testing, and Reporting.” Supplemental revisions to Sec-19a and Sec-19b were submitted to EPA on June 18, 2015 and September 25, 2015, respectively.

III. EPA’s Evaluation of Connecticut’s SIP Revision

a. New Section 22a-174-19b “Fuel Sulfur Content Limitations for Stationary Sources”

The new Sec-19b applies to any person who, on or after July 1, 2014, sells, supplies, offers for sale, stores, delivers or exchanges in trade, in the state of Connecticut, any fuel for combustion in a stationary source not subject to Sec-19a and to any person who, on or after July 1, 2014, combusts any fuel in a stationary source (not subject to section Sec-19a within the State of Connecticut.) Under Sec-19b, the sulfur in fuel oil limits, in parts per million (ppm), for affected sources are:

Maximum Fuel Sulfur Content, by weight		
Fuel Type	Effective July 1, 2014 through June 30, 2018	Effective on and after July 1, 2018
Distillate fuel oil or distillate fuel oil blended with biodiesel fuel	500 ppm (0.05%)	15 ppm (0.0015%)
Residual oil or residual oil blended with biodiesel	10,000 ppm (1.0%)	3,000 ppm (0.3%)
Aviation fuel combusted in a stationary source	3,000 ppm (0.3%)	3,000 ppm (0.3%)
Kerosene	400 ppm (0.04%)	15 ppm (0.0015%)

An exemption from the requirements of Sec 19b extends to: 1) any person combusting fuel in fuel-burning equipment undergoing testing as part of a research and development operation; 2) fuel stored in the state of Connecticut that meets any of the applicable sulfur content limitations

at the time it is stored; 3) any fuel stored in Connecticut for shipment, sale or use outside of the State; and 4) to any person who sells, supplies, offers for sale, stores for sale or combusts number two heating oil (home heating oil) subject to the sulfur content limitations of section 16a-21a of the Connecticut General Statutes.

EPA finds that the revised sulfur in fuel limits for stationary sources adopted in Sec-19b are more stringent than the State's current SIP-approved requirements and will aid in the overall reduction of SO₂ emissions from sources not already subject to limits under Sec-19a or of the Connecticut General Statutes. Therefore, EPA is approving Sec-19b.

b. Revisions to Section 22a-174-19 "Control of Sulfur Compound Emissions"

Sec-19 (previously codified as section 19-508-19 of Connecticut's regulations) was approved into the Connecticut SIP on November 18, 1981. See 46 FR 56612. The revisions to Sec-19 included in Connecticut's April 22, 2014 submittal consist of: 1) the removal of Section 22a-174-19(a), "Fuel combustion"; 2) revising the term "sulfur oxides" to "sulfur compound, expressed as sulfur dioxide;" and 3) two other minor edits ("0 85" is revised to "0.85" and "0 77" is revised to "0.77") throughout the remainder of Sec-19. The previously SIP-approved section Sec-19(a) limited the sale, storage, and use of fuel which contains sulfur in excess of a maximum of one percent (1%) by weight. Revised Sec-19 now only applies to sulfuric acid plants, sulfur recovery plants, nonferrous smelters, sulfite pulp mills, and other process sources.

The Clean Air Act (CAA) section 110(*l*) provides that EPA shall not approve any implementation plan revision if it would interfere with any applicable requirement concerning attainment and reasonable progress, or any other applicable requirement of the CAA, i.e. demonstrate anti-backsliding. EPA finds that the requirements of the removed Sec-19(a) “Fuel combustion” are maintained and incorporated in a more stringent manner into the combination of the more stringent revised Sec-19a “Control of Sulfur Dioxide Emissions from Power Plants and Other Large Stationary Sources of Air Pollution” and the new Sec-19b “Fuel Sulfur content Limitations for Stationary Sources.” Therefore, the anti-backsliding requirements of section 110(*l*) have been met. In addition, the revision of the term “sulfur oxides” to “sulfur compound, expressed as sulfur dioxide” is consistent with the previous definition of “sulfur oxides” found in the removed Sec-19(a). For all of the reasons above, EPA is approving Connecticut’s revised Sec-19.

c. Revisions to Section 22a-174-19a “Control of Sulfur Dioxide Emissions from Power Plants and Other Large Stationary Sources of Air Pollution”

Sec-19a was approved into the Connecticut SIP on July 10, 2014. See 79 FR 39322. The revisions to Sec-19a included in Connecticut’s April 22, 2014 submittal consist of: 1) the removal of section Sec-19a(c) sulfur dioxide emission standards and fuel sulfur limits effective on and after January 1, 2002; 2) in Sec-19a(e), the removal of a specified January 1, 2003 effective date; and 3) in Sec-19a(i), the allowance of more recent versions of the American Society for Testing and Materials (ASTM) test method D4294 and automatic sampling equipment conformance to ASTM test method D4177-82 or a more recent version of the same

method. Our action to remove two of these Connecticut SIP requirements, and revise the third, is discussed below.

The sulfur in fuel limit (0.5% sulfur, by weight) and emission limit (0.55 pound SO₂ per MMBTU) required on or after January 1, 2002 by the removed Sec-19a(c) have been superseded by the more stringent fuel limits (0.3% sulfur, by weight) and emission limit (0.33 pound SO₂ per MMBtu) required under Sec-19(e) which we are approving into the SIP. Similarly, Sec-19a(e) has been revised to remove the reference to a January 1, 2003 commencement date in relation to sulfur limits that are being removed from the SIP.

Revised Sec-19a(i), which we are approving into the SIP, updates the record keeping requirements to allow the use of more recent versions of approved ASTM test methods and requires the owners and operators of the affected units to maintain all sulfur in fuel records on premises for five years. The previous version dictated that records need not be maintained for distillate oil, motor vehicle fuel, aircraft fuel, or gaseous fuel provided such fuels which had a sulfur content below 0.3% by weight. The version we are approving in this action corrects these omissions.

Connecticut's revised Section 19a removes outdated requirements while maintaining the same level of SO₂ control as the previous SIP-approved version. Therefore, the CAA's Section 110(l) anti-backsliding requirement has been met. In addition, EPA finds it appropriate to update the testing and sampling methods to conform to a more recent test method. EPA also finds it

appropriate for the above-referenced records to be maintained. Therefore, EPA is approving Connecticut's revised Sec-19a.

d. Revisions to Section 22a-174-5 “Methods for Sampling, Emission Testing, and Reporting”

Section 22a-174-5 (previously codified as Section 19-508-5 of Connecticut's regulations) was approved into the Connecticut SIP on August 28, 1981. See 46 FR 43418. Section 22a-174-5(b)(1) was subsequently revised by Connecticut to allow analysis for the sulfur content of liquid fuels to be done according to the American Society for Testing and Materials method D7039. EPA is approving the minor revision to Section 22a-174-5(b)(1) because EPA concurs that it should be an allowable method of analysis.

IV. FINAL ACTION

EPA is approving, and incorporating into the Connecticut SIP, the Regulations of Connecticut State Agencies Section 22a-174-19 (as amended and described in Section III.b., above), Section 22a-174-19a(e), Section 22a-174-19a(i), Section 22a-174-19b, and Section 22a-174-5(b)(1), all as published in the Connecticut Law Journal on June 24, 2014. EPA is also removing, without replacement, Section 22a-19a(c), which was previously approved into the SIP. See 40 CFR Section 52.370 (c)(103)(i)(A)(1).

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed.

This rule will be effective **[Insert date 60 days from date of publication in the Federal Register]** without further notice unless the Agency receives relevant adverse comments by **[Insert date 30 days from date of publication in the Federal Register]**.

If the EPA receives such comments, then EPA will publish a notice withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. All parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on **[Insert date 60 days from date of publication in the Federal Register]** and no further action will be taken on the proposed rule. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

V. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by

reference of the Regulations of Connecticut State Agencies described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents generally available electronically through www.regulations.gov and/or in hard copy at the appropriate EPA office (see the ADDRESSES section of this preamble for more information).

VI. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);

- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Regional haze, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: November 5, 2015.

H. Curtis Spalding,
Regional Administrator,
EPA New England.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52 - [AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart H - Connecticut

2. Section 52.370 is amended by redesignating paragraph (c)(103)(i)(A)(2) as (c)(103)(i)(A)(3), adding a new paragraph (c)(103)(i)(A)(2), and adding paragraph (c)(111) to read as follows:

§ 52.370 Identification of plan

* * * * *

(c) * * *

(103) ***

(i) ***

(A) ***

(2) Section 22a-174-19a(c) which was approved in paragraph (c)(103)(i)(A)(1), is removed without replacement; see paragraph (c)(111)(i)(B).

* * * * *

(111) Revisions to the State Implementation Plan submitted by the Connecticut Department of Energy and Environmental Protection on April 22, 2014.

(i) Incorporation by reference.

(A) Amendments to Regulations of Connecticut State Agencies (RCSA) as published in the Connecticut Law Journal on June 24, 2014, effective April 15, 2014.

(1) Revised Section 22a-174-19

(2) Revised Section 22a-174-19a(e)

(3) Revised Section 22a-174-19a(i)

(4) Section 22a-174-19b with the exception of subsection (e), which was not submitted by the State.

(5) Revised Section 22a-174-5(b)(1).

(B) RCSA Section 22a-174-19a(c) which was approved in paragraph (c)(103)(i)(A)(1), is removed without replacement.

(ii) Additional materials. [Reserved]

3. In § 52.385, Table 52.385 is amended by adding a new entry for state citation 22a-174-5; adding a new entry for state citation 22a-174-19; revising the entry for 22a-174-19a; and adding an entry for state citation 22a-174-19b in numerical order to read as follows:

§ 52.385 - EPA-approved Connecticut regulations.

* * * * *

Table 52.385 - EPA-Approved Regulations

Connecticut State citation	Title/ subject	Dates		Federal Register citation	Section 52.370	Comments/ description
		Date adopted by State	Date approved by EPA			
*	*	*	*	*	*	*

22a-174-5	Methods for sampling, emission testing, sample analysis and reporting	4/15/14	[Insert Federal Register date of publication date]	[Insert Federal Register citation]	(c)(111)	Revision to section 22a-174-5(b)(1)
*	*	*	*	*	*	*
22a-174-19	Control of Sulfur Compound Emissions	4/15/14	[Insert Federal Register date of publication date]	[Insert Federal Register citation]	(c)(111)	Revises section 22a-174-19
*	*	*	*	*	*	*
22a-174-19a	Control of sulfur dioxide emissions from power plants and other large stationary sources of air pollution	12/28/00	7/10/14	79 FR 39322	(c)(103)	<p>Approves the sulfur dioxide emission standards and fuel sulfur limits for units subject to the CT NO_x Budget program. The following sections were not submitted as part of the SIP: sections (a)(5); (a)(8); (a)(11); (d); (e)(4); (f); (g); (h); and in (i)(2) reference to (e)(4).</p> <p>Section 22a-174-19a(c) was repealed by the State of Connecticut effective April 15, 2014 and removed from the SIP without replacement effective [Insert Federal register date of publication]</p>
22a-174-19a	Control of sulfur dioxide emissions from power plants and other stationary sources of air pollution	4/15/14	[Insert Federal Register date of publication date]	[Insert Federal Register citation]	(c)(111)	Withdraws section 22a-174-19a(c) previously approved in paragraph 52.370(c)(103) and revises sections 22a-174-19a(e) and 22a-174-19a(i).

22a-174-19b	Fuel Sulfur Content Limitations for Stationary Sources	4/15/14	<u>[Insert Federal Register date of publication date]</u>	<u>[Insert Federal Register citation]</u>	(c)(111)	Addition of a new regulation With the exception of subsection (e) which was not submitted by the State
*	*	*	*	*	*	*

[FR Doc. 2016-12120 Filed: 5/24/2016 8:45 am; Publication Date: 5/25/2016]